



## House Bill 5449

### **An Act Concerning Liability for Unfair Insurance Practices in Workers' Compensation Claims**

**Testimony of Melody A. Currey**

**Committee on Labor and Public Employees  
March 3, 2016**

The Department of Administrative Services (DAS) is the central administrator for the workers' compensation program applicable to state employees, responsible for establishing procedures for injury claim reporting and processing, managing the third-party administrator that processes all state employee workers' compensation claims and managing the workers' compensation budgets for most state agencies. DAS offers the following testimony regarding **House Bill 5449, An Act Concerning Liability for Unfair Insurance Practices in Workers' Compensation Claims**.

The workers' compensation system provides individuals who are injured or become ill as a result of their employment with wage replacement and medical benefits. Under the workers' compensation laws, employers cannot contest liability on the basis that the injury was due to his or her own negligence or wrongdoing, the negligence or wrongdoing of a co-worker, or that the employee assumed the risk of the injury by taking the job. The employee is covered, regardless of any of these factors. In exchange for losing the right to contest fault, the employer benefits by having a stable system with clearly established parameters and relatively quick disposition of conflicts.

Although employees and employers may dispute whether an injury occurred on the job or whether a particular medical treatment is appropriate, such disputes are resolved through the Workers' Compensation Commission far more quickly than they could ever be resolved in court. While no system is perfect, Connecticut's workers' compensation system provides both protection to employees and stability to employers.

House Bill 5449 seeks to add a separate layer to this system by allowing a claimant to bypass the Workers' Compensation Commission and file claims in State court whenever the claimant believes that the employer or insurer "unreasonably contested liability" or that "payments or adjustments of compensation" have been "unreasonably delayed." These vague terms are likely to give rise to a multiplicity of claims. Moreover, as this bill is constructed, the Workers' Compensation Commission will retain jurisdiction over whether a claim is covered and what benefits are appropriate. Trying to adjudicate inter-related claims in two separate and distinct tribunals, each with its own rules and procedures, adds to the complexity, time and cost of resolving these claims.



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**DEPARTMENT OF ADMINISTRATIVE SERVICES**

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House Bill 5449 does provide for an award of attorneys' fees to the prevailing party; however, that award is limited to \$5,000. Given the fact-specific nature of these claims and the motion practice and hearings required to resolve these claims, \$5,000 is unlikely to adequately compensate any prevailing party for the cost of having to litigate these claims.

DAS understands the intent of this bill is to create an avenue for redress in the very limited situation where the Workers' Compensation Commission has determined that a claimant is entitled to certain benefits and the employer or insurer unjustifiably fails to pay those benefits. Because it is so broadly written, however, House Bill 5449 threatens the foundations of the workers' compensation system. For these reasons, **DAS opposes this bill as written.**

Thank you for allowing DAS to comment on this bill.